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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,821	09/29/2000	John C. Lynch	91436-284	2252

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EXAMINER

GEREZGIHER, YEMANE M

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 07/23/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/672,821

Applicant(s)

LYNCH ET AL.

Examiner

Yemane M Gerezgiher

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application has been examined. Claims 1-24 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-5, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The inventive entity recite "...the Simple Network Management Protocol" (claim 3, claim Lines 1-2, and claim 16, claim Lines 1-2) "...the Media Gateway Control Protocol" (claim 4, claim Lines 1-2), and "...the Session Initiation Protocol" (claim 5, claim Lines 1-2). There is no sufficient antecedent basis. No Simple Network Management Protocol, Media Gateway Control Protocol and Session Initiation Protocol has been previously defined in the claim.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 24 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

- As per claim 24, A computer data **signal** embodied in a carrier wave comprising a request for information regarding an active media connection

This claim is directed to a non-statutory subject matter (**a signal per se**), which is not tangibly embodied on a computer readable medium so is to be executable and directed to a non-functional descriptive material.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claim 1, 6, 7, 12-15 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Chong et al (U.S. Patent Number 6,205,557) hereinafter referred to as Chong.

As per claims 1, 12, 13, 15 and 22, Chong disclosed a telecommunication network including an active and standby call servers, the standby server becoming active upon failure of the active call server (See ABSTRACT) where the active server receiving signal from an interface server hereinafter referred to as a “*media gateway*”. The active call server *sending/receiving a request, to/from a media gateway, for information regarding said active media connection; and receiving said information.*

("The active call server may then send a request back to the *media gateway* requesting more information regarding the call and receiving the information..."). See Column 1, Lines 36-62, and Column 2, Line 25 through Column 3, Line 17 and Figure 5.

As per claims 6 and 7, Chong disclosed that the active call server storing the received information about active media connection in a *memory*. See Column 3, Lines 26-33.

As per claim 14, Chong disclosed a telecommunication network including an active and standby call servers, the standby server becoming active upon failure of the active call server. Chong disclosed *receiving an indication of a failure of a primary call server, said primary call server, prior to said failure, supporting said active media connection; responsive to said receiving, sending a request, to a media gateway, for information regarding said active media connection; and receiving said information*. See ABSTRACT, Column 1, Lines 54-62, Column 4, Lines 28-36 and Column 5, Lines 6-32.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-5, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chong et al (U.S. Patent Number 6,205,557) in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made.

With respect to the claim rejection applied to claims 1 and 15 above, Chong disclosed the invention as claimed. However Chong was silent about the specific protocol used from a possible communication protocols such as SNMP (Simple Network Management Protocol), MGCP, SIP (Session Initiation Protocol) which are used to acquire information between the active and or the backup call servers and interfacing servers (media gateways).

However, the protocols mentioned above were well known in the art at the time the invention was made. In fact SNMP (Simple Network Management Protocol) *is used to read and write (set) information on network devices, which is a standard for gathering statistical data about network traffic and the behavior of network components; SNMP uses management information bases (MIBs), which define what information is available from any manageable network device.* MGCP (Media Gateway Control Protocol) *is a protocol for IP telephony that enables a caller with a PSTN phone number to locate the destination device and establish a session also known as IETF RFC 2705 and further* SIP (Session initiation protocol) *is an Internet standard specified by the Internet Engineering Task Force (IETF) in RFC 2543. SIP is used to initiate, manage, and terminate interactive sessions between one or more users on the Internet. SIP, which borrows heavily from HTTP and the e-mail protocol SMTP, provides scalability, extensibility, flexibility, and capabilities for creation of new services. SIP is increasingly*

used for Internet telephony signaling, in gateways, PC phones, softswitches, and softphones. For example See (U.S. Patent Number 6,584,186) issued to Aravamudan et al disclosed the use of the claimed protocols (See Column 1, Line 55 through Column 2, Line 5 and Column 13, Lines 50-57). Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to take those commonly and widely implemented protocols related to obtaining or transmitting information between network devices and have modified the teachings of Chong related to telephony network comprising active and back up call servers processing and recording call states in order to facilitate the transmission of information between devices in the telephony network.

10. Claims 8-11, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chong et al (U.S. Patent Number 6,205,557) as applied to claims 1 and 15 above and further in view of Vaziri et al (U.S. Patent Number 6,377,570).

With respect to the claim rejection applied to claims 1 and 15 above, Chong disclosed the invention as claimed. Further Chong broadly disclosed call information where the call "information includes, but is not limited to, the content of the signaling message received; registers containing transient data about the call, such as counter and timer values; customer identification; and customer data and logic" (See Column 1, Lines 43-49). However Chong did not explicitly spell the specific limitations wherein the information including an address or information of a device originating said active media

connection, an indication of a duration of time, an indication of a coding algorithm used, indication of Quality of Service setting associated active media connection.

An artisan now working with the invention of Chong would have been motivated to look for teachings that may have allowed collecting detailed call information. In these arts, Vaziri disclosed the billing server maintaining information regarding each call for billing purposes. Information is received a billing server where the transmission of the call information was done at a predetermined interval (claim 7). See Column 21, Lines 57-60 and Column 18, Lines 11-23.

The billing record for each call including the caller telephone number, the caller serial number, the called telephone number, the called serial number, the start time and date, the call duration and the quality of the connection. To determine the quality of the connection, the billing server or another-server can maintain a statistical record, either globally or for each call. The statistical record can include such information as the percentage of lost packets, the percentage of late packets, the percentage of packets out of sequence, the percentage of discarded transmission packets, the percentage of discarded reception packets, and, for each of the parties to the call, the baud rate, the compression rate, and the frames. See Column 21, Line 57 through Column 22, Line 6.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Vaziri related to collecting specific information of each call and have modified the teachings of Chong related to related to

telephony network comprising active and back up call servers processing and recording call status in order to generate a detailed and accurate billing statement.

11. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arango et al (U.S. Patent Number 6,724,747) hereinafter referred to as Arango in view of Chong et al (U.S. Patent Number 6,205,557).

Arango disclosed a method and system for media connectivity over a *packet-based network, a telephone station apparatus a media gateway communicatively connected to a telephone station apparatus and a data network and connected to media gateway controller or connection manager* for establishing a connection between first media gateway and a second media gateway. See Figures 1-5, Column 1, Lines 45-60 and Column 2, Lines 5-24. Since a media gateway is a computer device or a computer program run on a computer device that translates between two dissimilar protocols, a media gateway comprising a receiver to receive data from first network and to process the received data using a processor connected to the receiver and to transmit the processed data to a second network through a transmitter connected to a processor is inherently disclosed by Arango's described media gateway. Arango substantially disclosed the invention as claimed. However, Arango was silent about *sending from the media gateway to the backup call server information regarding an active media connection terminated at said primary server; and receive said information at the backup call server.*

An artisan working with Argon's invention would have been motivated to look for teachings that may have allowed avoiding to backup call information when a primary call server fails. In these arts Chong disclosed an active call server (*a primary call server communicatively connected, over data network*) and a standby/backup call server connected requesting and receiving information from an interface server/gateway, where the interface gateway receives indication of a failure with the active/primary call server and transmitting call information *terminated at said primary server* at the backup call server. See Column 1, Lines 36-62, and Column 2, Line 25 through Column 3, Line 17 and Figure 5.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Chong related to transmitting call information data from a media gateway to a warm-standby call server during the failure of a primary/active call server so that "the telecommunications network can insure, in the event of a failure of the active call server, that calls that have been initiated, but not established, will be established." See Column 1, Lines 59-62.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

a. Scott, Mark et al. (US 6760324 B1) entitled: *Method, system, and computer program product for providing voice over the internet communication*

- b. Christie, Samuel H (US 6754180 B1) entitled: *System, method, and computer program product for support of bearer path services in a distributed control network*
- c. Kung, Fen-Chung et al. (US 6671262 B1) entitled: *Conference server for automatic x-way call port expansion feature*
- d. Aravamudan, Murali et al. (US 6584186 B1) entitled: *Protecting communications network integrity*
- e. Thibon, Michel et al. (US 6424700 B1) entitled: *Network based distributed PBX with connection loss survival features*
- f. Smyk, Darek A. (US 6289001 B1) entitled: *System and method for ATM proxy signaling*
- g. Blum, Andrea G. et al. (US 5974114 A) entitled: *Method and apparatus for fault tolerant call processing*
- h. Kipp, Lyle Dean (US 5933474 A) entitled: *Telecommunications call preservation in the presence of control failure and high processing load*
- i. Frey, Alan Eugene (US 5848128 A) entitled: *Telecommunications call preservation in the presence of control failure*

Foreign Patent Documents

- j. BENEDYK, R D et al. (WO 200221859 A) entitled: *Scalable Processing Node (Call processing node for voice-over-IP communication, has call server*

modules that receive SS7 messages and establish call connection with media gateways to forward media-gateway compatible messages to media-gateways)

k. KUSTER, J et al. (WO 200217038 A) entitled: System for a Media Gateway to Media Gateway Address Information Exchange (*Packet based communications protocol for communication networks for exchanging address information establishing two termination points in first and second media gateways and exchanging address information directly between termination points*)

13. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Yemane Gerezgiher whose telephone number is 703-305-4874. The examiner can normally be reached on Monday- Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, William Cuchlinski, can be reached at (703) 308-3873.

Yemane M. Gerezgiher
TC 2100, AU 2144


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